

**Newfields Planning Board Meeting Minutes  
September 10, 2020**

**Attendance:** John Hayden, Jeff Feenstra, Jamie Thompson, Mike Price, Town Planner Glenn Greenwood, Jeff Couture, Mike Todd and Bill Meserve.

Chairman Hayden called the meeting to order at 7pm.

**Continued Hearing-Pawtucket Land Holdings –Lot Line Adjustment and Old Lee Rd 6-Lot Subdivision  
Map 208 Lot 14 & 15**

Jeff Feenstra read Town Planner's comments into the record

**Pawtucket Land Holdings-Lot Line Adjustment and Old Lee Road Subdivision Application-Map 208 Lot 14 & 15-** The Planning Board is continuing its review of this proposal for residential subdivision off Old Lee Road. Below are significant actions that have taken place since the last meeting of the Board.

1. The Planning Board has received an environmental impact statement prepared by the applicant and a review of this document from Mike Cuomo from the Rockingham Conservation District. There were revisions made to the environmental assessment and concluding comments from RCCD. The Board should consider requiring the wells proposed on lots 2, 3 and 5 be relocated out of the buffer areas as suggested by Cuomo and redesigned by the applicant. I would like to highlight two final comments from Cuomo:

“Negative environmental impacts will occur whenever land is developed. This is unavoidable. In my professional opinion, the applicant's team has made a reasonable effort to minimize negative environmental impacts. More can always be done, but I cannot suggest specific additional measures which would obviously reduce environmental impacts, still allow future homeowners some flexibility in the use of their land, and reasonably balance costs and benefits.

In my professional opinion, the environmental impacts of this project will be what one would reasonably expect from a project of this size in this specific location.”

2. The Board received both bond estimates from the applicant for the road work and driveway work associated with the project in order to establish the required bonding for this proposal. This estimate was reviewed and revised by the Town's consulting engineer and the Board would need to accept this bond estimate if moving forward with this proposal. Bond estimates are required for the construction materials required for the work associated with the conditional use permit. The applicant highlighted those materials in his estimate and the total was approximately \$12,000. The towns consulting engineers cost estimate differed on these items by only \$100.
3. The Board still needs to address the applicants request to waive the cul-de-sac length requirement as detailed by the proposed plan.

4. The Planning Board must act on the request for a conditional use permit for the construction of the proposed roadway and driveway that impact the wetlands on site.
5. The Planning Board if moving forward on this proposal should require construction fencing be installed at the perimeter of the construction area to ensure that on-site activity does not exceed 100,000 square feet. The Town's inspecting engineer should ensure these limits of construction are maintained.
6. The Board should discuss their process for determining the sidewalk requirements for this project.
7. If moving forward the Board needs to ensure that the applicant pay all outstanding invoices for review by Town consultants.
8. The applicant should provide an easement to the Town for access to the cistern during the time the roadway is not owned by the Town if the Planning Board moves forward with this proposal.

According to John, Mr. MacRitchie sent a revised plan with alternate locations for the wells for lots 2,3 and 5. Glenn noted a well easement agreement would be needed on lot 4. There will be a well easement for the benefit of lot 3 on lot 4. Additionally, cistern, drainage and utility easements will be drawn up and recorded with the approved plan. The easements are delineated on the plan. Dan would like to see the easements as a condition of approval and finalized after being reviewed by Town Counsel.

A motion was made by Bill Meserve and seconded by Mike Todd to relocate the wells on lots 2,3 and 5, out of the buffer area as shown on the subsequent plan. All were in favor and the motion carried.

The bond estimates were discussed next. The applicant came up with an estimate and it was reviewed by the Town Engineer Tobin Farwell. Glenn indicated that the conditional use permit requires that the cost of activities that are happening within the jurisdiction of the conditional use permit be bonded. There was only a difference of \$100 between the original cost of activities of the conditional use permit and the reviewed estimate.

Sidewalk requirements were discussed. Bill Meserve mentioned that in the past every developer has been required to contribute funds to the Sidewalk Fund in lieu of building sidewalks within the development. Mike Todd asked if there was a formula used in the past to come up with sidewalk costs. Mike Price asked if the Road Agent had been contacted regarding the cost of sidewalks. Glenn was unable to come up with any formula in the ordinances. Mike Price said that in the past he recalls a linear foot cost being used.

Bill Meserve suggested having Tobin come up with a cost for sidewalks. A motion was made by Mike Todd and seconded by Bill Meserve to have Farwell Engineering prepare a cost estimate for sidewalks. All were in favor and the motion carried.

Mike Price asked about impact fees. Sue responded that the school has an impact fee of \$3,250.00 and it is customarily paid prior to certificate of occupancy. There is no fire impact fee because of the cistern being installed on site.

Bill suggested that delineation markers be placed on site per Section 7.6.3.1 of the Newfields Zoning Ordinances.

7.6.3.1-For land proposed to be developed, buffer zones as defined within this subsection shall be permanently delineated with authorized Town of Newfields markers at intervals not to exceed 75'. Additional markers may be required at a lesser interval for irregular boundaries.

John asked Dan MacRitchie about the feedback from Mike Cuomo regarding pocket ponds within the buffer zone. Dan indicated that the drainage infrastructure in place is needed for treatment. It was his understanding that everything within the buffer zone on the plan as part of the conditional use permit is required unless the Board waives the requirement and does not want drainage treatment, which would be inconsistent with past discussions.

John asked if his calculations were included in the limit of disturbance. Dan replied that he did include the grading taking place through the buffer and it is clearly shown on the plan.

Bill questioned why pocket pond #2 can't be moved out of the no build zone. Dan said that the wetlands slope down on both sides of the road. The remainder of the road slopes up. The farther the pond is moved up the less drainage can be captured and treated. The ponds should be as low as possible to treat as much drainage as possible.

Jeff Feenstra asked about the overall bond amount and the discrepancy in price between the two estimates: specifically, the cost of the cistern. Cisterns cost approximately \$30,000. Farwell provided a cost of \$60,000 for a cistern. The differences will need to be addressed by the Board.

Gayle Davis asked the Board if they received the letter of concerns signed by 52 residents within the community. John indicated that everyone has received the letter. Jeff shared the letter for all to review and he highlighted some key points.

See attached letter.

John stated that the Board's job as Planning Board members is often never an easy job. They must balance between what our rules and regulations allow landowners to do with their property, while ensuring they are acting on behalf of the Town and upholding those rules to the best of their abilities. He agrees that a prior inspection of Old Lee Rd and bonding is needed to prevent any road damages that take place during construction. It is not the Board that makes the decisions on their own regarding wetlands and impacts associated with them. They rely on the trained professionals to assist them in making determinations. They have had both local and state agencies who have weighed in on this proposal. There have been significant changes made to the original plan on the amount of impact. They do the best that they can do to strike a balance upholding the rules and regulations while allowing a property owner to develop their land.

Gayle agreed that the Board has a difficult job as residents. From her personal point of view, should this project move forward her fear is that Mr. Peterson will do as he pleases. She is concerned there are no sidewalks, no street lighting and a lot of children on Old Lee Rd. She would hate to see an accident occur with all the construction trucks traveling on the road. In her opinion, one or two houses is fine but not six. When she built her home, she was clearly denied the house location due to wetlands.

Jeff Feenstra stated that property owners have certain rights, and the Board has to strike a balance. The Board has looked at this project long and hard. They went from a 12- lot subdivision down to a 6-lot

subdivision. In his opinion, the applicant's proposal is reasonable. The project will be bonded for security. This is not their first development and they have done a nice job in the past.

Mike Price added that as much as he is not in favor of this development, the rules are the rules, voted on by the Town. The Board is following the rules as best they can. As far as the developer doing as he pleases; that will not be the case. There will be a town appointed inspector on site to ensure the conditions set forward are followed. There have been no problems with developers in the past and he doesn't expect them this time.

Mike Todd asked if there were any other letters from Newfields residents sent in. There were none.

After conditions are met, the final approval will take place at a public hearing.

Glenn said Bill has indicated he wants to see wetland delineation markers for construction and a baseline condition established for Old Lee Rd. He recommends the baseline be established in conjunction with the Board of Selectmen because they oversee the roadway. Additionally, a bond will be in place to prevent damage to the roadway.

A motion was made by Jeff Feenstra and seconded by Mike Price to accept the bond amount of \$377,033 as provided by Tobin Farwell. All were in favor and the motion carried.

The Board addressed the cul-de-sac length waiver request.

Jeff commented that he is in favor of the road length waiver of 1,000 feet. In his opinion, the road length requirement was established for fire suppression 20-25 years ago. Back then the Fire Department did not have the hose to get water up a 1,000-foot roadway in a timely fashion and now they do with 4" and 5" lines.

Jamie asked about prior conversations with the developer regarding them being willing to sprinkler the houses and he wanted to know if this was still happening. Glenn stated the fire cistern on site is the alternative for fire suppression. We cannot require the homes to be sprinklered. The fire cistern has been reviewed approved by the Fire Department.

Discussion resumed on the waiver request. Mike Todd is not in favor of the waiver request with the cul-de-sac being 1,228 linear feet of road. Our ordinance may be out of date, but we are setting a bad precedent.

A motion was made by Jeff Feenstra and seconded by Jamie to grant the waiver request on the cul-de-sac length. Price-no, Todd-no, Feenstra-yes, Meserve-yes, Couture-yes, Thompson-yes, Hayden-yes. With a vote of 5-2 the motion carried.

The conditional use permit to allow the crossing into the wetland was discussed. The applicants conditional use permit was viewed, and the criteria was reviewed.

Insert conditional use permit March 10, 2020.

Glenn asked that the letter be revised to replace conservation subdivision with conventional subdivision. This request is for both the roadway and driveway to access lot 6.

Bill noted there are 7 criteria and this letter only addresses 3 of the 7 criteria. Glenn read the 7 criteria to consider when granting a conditional use permit.

7.9.1 A Conditional Use Permit may be granted by the Planning Board (RSA 674:21 11) for the construction, in areas designated as wetlands, of roads and other access ways, and for pipelines, power lines, and other transmission lines provided that all of the following conditions are found to exist:

7.9.2 The proposed construction is essential to the productive use of land not within the Wetlands Conservation District.

7.9.3 Design and construction and maintenance methods will be such as to minimize detrimental impact upon the wetland and will include restoration of the site as nearly as possible to its original grade and condition.

7.9.4 No alternative route which does not cross a wetland or has less detrimental impact on the wetland is feasible.

7.9.5 Economic advantage alone is not reason for the proposed construction.

7.9.6 Prior to the granting of a Conditional Use Permit under this Section, the applicant shall agree to submit a performance security to ensure that all construction is carried out in accordance with an approved design. The security shall be submitted in a form and amount, with surety and conditions satisfactory to 1) the Planning Board for site plan and subdivision application and 2) the Board of Selectmen in all other cases.

7.9.7 Planning Board may require the applicant to submit an environmental impact assessment when necessary to evaluate an application made under this Section. The cost of this assessment shall be borne by the applicant. The Planning Board may also assess the applicant reasonable fees to cover the costs of other special investigative studies and for the review of documents required by particular applications.

Bobby Kelly asked if the conditional use permit was one combined permit for both the road and the crossing for lots 1 and 5. Glenn said the Board was going to consider both as one.

Bill Meserve suggested voting on the conditional use permits separately as noted in a previous meeting. The driveway for lot 6 is over 600 linear feet and the impact to wetlands is a much larger area. The Gove Report stated that by keeping the development of the lots with the houses close to the front of the lots and maintain the buffers for each lot there should be no impact to the wetlands. If the conditional use permit is combined, he would vote no. He believes the driveway crossing is for economic advantage and the applicant's consultant agreed it would be an economical environmental impact. This area is sensitive, surrounded by conservation land and within the river corridor. Mike Todd agreed and said if the driveway crossing is considered economic gain he would vote no, and it would be less alteration of terrain and provide more of a buffer.

Dan said the only way for the property owner of lot 6 to access his property is to cross the wetland to get to the large upland area. Under NH Statutes an owner is allowed to access his land. The Town ordinance states differently according to Bill and what good is our ordinance if it states no economic gain. This issue has come up before and developers have not been allowed to develop like they would like to because of our wetland's ordinance.

Larry Averill commented that he knows landowners who cannot access their land on Route 87 because they cannot cross the railroad tracks. Sometimes land cannot be accessed with roads because it is landlocked of rules and ordinances prevent it.

A motion was made by Mike Todd and seconded by Bill Meserve to vote on the conditional use permit as separate items, the roadway and driveway crossing. Price-yes, Todd-yes, Feenstra-yes, Meserve-yes, Couture-no, Thompson-yes, Hayden-yes. The motion carried with a vote of 6-1.

Mike Price said he believes the applicant has addressed the 7 criteria.

Mr. Peterson stated that he cannot move forward with the project without the second crossing.

A motion was made by Jeff Feenstra and seconded by Jamie to grant the conditional use permit for wetlands crossing #1 for the roadway. Price-yes, Todd-yes, Feenstra-yes, Meserve-yes, Couture-yes, Thompson-yes, Hayden-yes. All were in favor and the conditional use permit was granted.

Bill reiterated that the driveway crossing to lot 6 impacts 265 linear feet of the buffer area through the wetlands. Therefore, our economic gain ordinance exists. There will be impact to wetlands according to Gove.

A motion was made by Bill Meserve and seconded by Mike Todd to not grant the conditional use permit for lot 6 or wetlands crossing #2. Price-yes, Todd-yes, Feenstra-no, Meserve-yes, Couture-yes, Thompson-no, Hayden-no. With a vote of 4-3 the motion to not grant a conditional use permit passed.

**Conditions of Approval:**

Prior inspection or baseline of Old Lee Road to be done by the Select Board for bonding

All easement language to be reviewed by Town Counsel

Notation to wetland delineations with markers to be placed on site

Fencing for the limit of construction to take place

Notation on the plan for signage for no road salt on both sides of the buffer area.

Sidewalk cost subject to Farwell Engineering estimate

Payment of any outstanding fees owed to the Town by the applicant

Maintenance of the stormwater systems to be maintained by the applicant until transferred to the Town

Inspection costs of onsite inspector working on behalf of the Town, to be borne by developer

Bond amount and process to be reviewed by Town Counsel and a 90-day notification of bond expiration is required by the developer

Conditions of approval to be met within 12 months.

Substantial improvement is accomplished when the developer has the crossings complete and binder course is in place, within 24 months of the signing of the mylar.

A motion was made by Bill Meserve and seconded by Jeff Feenstra to approve the subdivision with the above conditions. Price-yes, Todd-yes, Feenstra-yes, Meserve-yes, Couture-yes, Thompson-yes, Hayden-yes. All were in favor and the motion carried.

There will be no homeowner's association.

Bobby Kelly asked if there was a timeline for the lot line adjustment and subdivision to be recorded. John said it will take place before any development begins and recorded with the subdivision.

**Continued Hearing-John & Barbara Hayden-Site Plan Review Map 202 Lot 4 & 10.1**

Jeff Feenstra took over as Chairman.

John Hayden gave a brief update of his project. He has filed his Alteration of Terrain Application, Wetlands Permit and Shoreland Permit. He still has not heard back from DOT and doesn't anticipate any issues with his driveway permits. He is on the Newfields Conservation Commission agenda this month for the wetlands permit and with the Exeter Squamscott River Advisory Committee to discuss the shoreland impact and the wetlands crossing, which is minor.

John Hayden requested a continuance until October. A motion was made by Mike Price and seconded by Jeff Couture to continue the hearing. All were in favor and the motion carried.

The meeting adjourned at 9:29pm.

Respectfully submitted,

Sue E. McKinnon